



could look inside and describe to her what he was observing; on one occasion he manipulated her vagina so he could touch her clitoris. He asked her if she masturbated, to describe—in detail—her sexual experiences, presented himself nude in both a flaccid and erect state (so that she would not be alarmed by the sight of a nude man), and washed her back while she showered.

After being retained to represent Weatherford, his trial counsel requested that Weatherford receive a pre-trial mental examination to evaluate the possibility of a mental-defect defense. On appeal, Weatherford argues that the trial court allowed the State to question him “with information gleaned from his act-three mental evaluation and the sole purpose of these questions was to create manifest prejudice against him within the jury.” Indeed, at trial the prosecutor asked questions of Weatherford relating to information contained in his mental-evaluation report involving his religious studies, meditation practices, illegal drug use, Christianity, and whether he had been a witch. However, despite the supposedly inflammatory nature of the line-of-questioning, Weatherford answered several of the questions before a motion for mistrial was made. In fact, only after Weatherford responded that the mental-evaluation report as authored had “misquoted” him was there a mistrial motion. Further, although Weatherford’s counsel requested (at a bench conference) that two of the questions—based on the alleged misquotes contained in the mental evaluation—be struck from the record, there is no indication in the record that the judge did so.

In order to preserve this issue for appeal, the mistrial motion must have been tendered contemporaneously with the supposedly prejudicial remarks. *King v. State*, 361 Ark. 402, 206 S.W.3d 883 (2005). If the motion is not made at the first opportunity that the objectionable

information is brought to the jury's attention, the review of the denial of the motion is waived for appeal. *Ellis v. State*, 366 Ark. 46, 233 S.W.3d 606 (2006). Because Weatherford's objection was not offered at the first possible opportunity and was not contemporaneous with the allegedly improper remarks, we do not reach the merits of his claim relating to the prejudice—if any—he suffered during the pendency of the prosecutor's questioning and whether he was due a mistrial.

Affirmed.

GLADWIN and KINARD, JJ., agree.